

§ 2.1233

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or any party or § 2.1211(b) participant in a manner consistent with the way the hearing file was made available initially under paragraph (a).

(d) A party or § 2.1211(b) participant may not seek discovery from any other party, § 2.1211(b) participant, or the NRC or its personnel, whether by document production, deposition, interrogatories, or otherwise.

[54 FR 8276, Feb. 28, 1989, as amended at 64 FR 48949, Sept. 9, 1999]

§ 2.1233 Written presentations; written questions.

(a) After publication of a notice of hearing in accordance with § 2.1205(i) and after the NRC staff has made the hearing file available in accordance with § 2.1231, the parties and § 2.1211(b) participants shall be afforded the opportunity to submit, under oath or affirmation, written presentations of their arguments and documentary data, informational material, and other supporting written evidence at the time or times and in the sequence the presiding officer establishes by appropriate order. The presiding officer also may, on his or her initiative, submit written questions to the parties to be answered in writing, under oath or affirmation, and supported by appropriate documentary data, informational material, or other written evidence.

(b) In a hearing initiated under § 2.1205(b), the initial written presentation of the applicant that is issued a notice of proposed denial or a notice of denial must describe in detail any deficiency or omission in the agency's denial or proposed denial of its application and what relief is sought with respect to each deficiency or omission.

(c) In a hearing initiated under § 2.1205(d), the initial written presentation of a party that requested a hearing or petitioned for leave to intervene must describe in detail any deficiency or omission in the license application, with references to any particular section or portion of the application considered deficient, give a detailed statement of reasons why any particular sections or portion is deficient or why an omission is material, and describe in detail what relief is sought with respect to each deficiency or omission.

(d) A party or § 2.1211(b) participant making an initial written presentation under this section shall submit with its presentation or identify by reference to a generally available publication or source, such as the hearing file, all documentary data, informational material, or other written evidence upon which it relies to support or illustrate each omission or deficiency complained of. Thereafter, additional documentary data, informational material, or other written evidence may be submitted or referenced by any party, other than the NRC staff, or by any § 2.1211(b) participant in a written presentation or in response to a written question only as the presiding officer, in his or her discretion, permits.

(e) Strict rules of evidence do not apply to written submissions under this section, but the presiding officer may, on motion or on the presiding officer's own initiative, strike any portion of a written presentation or a response to a written question that is cumulative, irrelevant, immaterial, or unreliable.

[54 FR 8276, Feb. 28, 1989, as amended at 61 FR 39298, July 29, 1996]

§ 2.1235 Oral presentations; oral questions.

(a) Upon a determination that it is necessary to create an adequate record for decision, in his or her discretion the presiding officer may allow or require oral presentations by any party or § 2.1211(b) participant, including testimony by witnesses. Oral presentations are subject to any appropriate time limits the presiding officer imposes. Responsibility for the conduct of the examination of any witness rests with the presiding officer who may allow a party or § 2.1211(b) participant to propose questions for the presiding officer to pose to a witness.

(b) Oral presentations and responses to oral questioning to be relied upon as oral evidence must be given under oath or affirmation. All oral presentations or oral questioning must be stenographically reported and, except as requested pursuant to section 181 of the Act, must be public unless otherwise ordered by the Commission.

(c) Strict rules of evidence do not apply to oral submissions under this